



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 13, 2023

FROM: DEPUTY DIRECTOR BONNIE GLENN (ON BEHALF OF DIRECTOR GINO BETTS, JR.)
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0169

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Inconclusive
# 2	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Inconclusive

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged Named Employee #1 (NE#1) engaged in bias-based policing due to their gender and/or gender identity. The Complainant also alleged NE#1 was unprofessional.

ADMINISTRATIVE NOTE:

On September 12, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

[Pursuant to the OPA Internal Operations and Training Manual, Section 7.1, OPA findings are evaluated based on a preponderance of the evidence standard. To sustain a finding, OPA must prove that an officer more likely than not committed the alleged misconduct.](#)

SUMMARY OF INVESTIGATION:

After receiving the complaint, OPA opened an investigation. During its investigation, OPA reviewed the OPA Blue Team Complaint, the Complainant's written statement, and a witness's written statement. OPA also interviewed NE#1.

a. Blue Team Complaint

An SPD supervisor (Witness Supervisor #1 or WS#1) filed an internal "Blue Team" complaint concerning this incident. WS#1 wrote that the Complainant is a civilian transgender male enrolled in an Emergency Medical Technician (EMT) course being taught by an outside agency. WS#1 wrote that NE#1 is enrolled in the same course.



WS#1 wrote that the EMT course administrators brought the complaint to his attention. WS#1 wrote that the Complainant had approached the EMT course instructors with their complaint, which was relayed to the SPD Training Unit and WS#1. WS#1 wrote that the EMT course administration was also conducting their own investigation.

WS#1 stated he spoke to the Complainant by phone. According to WS#1, the Complainant stated they had to remove their shirt as part of a class where students practiced listening lung sounds. During this exercise, NE#1 was able to see mastectomy scars on the Complainant. The Complainant noted they had not interacted with NE#1 prior to this event, so had no “baseline” for NE#1’s usual behavior. The Complainant noted that, afterwards, it felt like NE#1 was distant and reluctant to engage with the Complainant. The Complainant alleged NE#1 would leave his assigned workgroup to work with a different group separate from the Complainant.

According to WS#1, the Complainant also relayed allegations concerning a workgroup on April 8, 2023. The Complainant said they and NE#1 were assigned to a workgroup practicing chest compressions using an “AED.” The Complainant said they picked up a piece of needed equipment when NE#1 approached and “ripped the equipment out of the complainant’s hand.” The Complainant said they asked NE#1, “What are you doing?” To which, NE#1 responded, “You don’t know what you’re doing, so I’m doing it for you.” The Complainant stated they confronted NE#1 about this, telling NE#1 he needed to warn them before doing something like that again. The Complainant alleged NE#1 responded, “I just fucking did.”

WS#1 also wrote that the Complainant provided the names of some possible witnesses and stated other students—whose names they did not know—corroborated their observations that NE#1 treated them differently. The Complainant alleged NE#1 was “rude” to them.

WS#1 wrote that the Complainant stated they did not want this issue referred to the Office of Police Accountability and did not think NE#1 should be disciplined, but stated they would rather work things through with NE#1 on their own.

b. Complainant’s Written Statement

The Complainant declined to provide an interview to OPA for this investigation, but stated OPA could use the written statement they provided to the EMT course administration.

The Complainant wrote that on March 30, 2023, they were working in a small group concerning “back boarding evolution.” The Complainant wrote NE#1 was in the group. The Complainant wrote that they were the “acting lead” and were delivering instructions to teammates to complete the exercise. The Complainant noted they had not been the “acting lead” before, but NE#1 had. The Complainant wrote they asked NE#2 for advice, causing NE#1 to look at them but then ignored them. The Complainant also described NE#1 ignoring their instructions for how to place various straps for the exercise.



The Complainant also described an exercise on April 8, 2023. The Complainant recounted working in a small group with NE#1. The Complainant wrote they experienced “avoidant behavior” from NE#1 that day, such as leaving their team to join other teams. The Complainant wrote they observed “normal and communicative behavior” as NE#1 interacted with other students. The Complainant recalled that, during one of the final exercises of the day, they went to pick up a piece of equipment when NE#1 approached, stated, “you don’t know what you are doing,” and then “aggressively” grabbing the piece of equipment out of their hands. The Complainant wrote they told NE#1, “If you’re going to grab my equipment, please just tell me.” The Complainant wrote NE#1 responded, “I just fucking did.” The Complainant noted other individuals were nearby, but stated they were unsure if those individuals heard the interaction. The Complainant wrote they confided the incident to another student, EMT-#1. The Complainant noted EMT-#1 did not witness the interaction. The Complainant recalled asking EMT-#1 if she had been treated similarly by NE#1, but EMT-#1 responded she had not.

c. Witness’s Written Statement

OPA also reviewed a written statement from EMT-#1. EMT-#1 wrote that, on April 8, 2023, they spoke to the Complainant who was “visibly shaken and/or frustrated” because of NE#1’s treatment of them. EMT#1 wrote that the Complainant confided that NE#1 grabbed a piece of equipment out of their hands and said, “I got this; you don’t know what you’re doing.” EMT-#1 also repeated the Complainant’s allegation that they asked NE#1 to tell them when they were going to grab equipment, and that NE#1 responded, “I just fucking did.”

EMT#1 corroborated telling the Complainant they had not noticed NE#1 treating them poorly. However, EMT #1 wrote that “upon further rumination,” they recalled NE#1 being “especially withdrawn” when paired in groups with EMT-#1. EMT-#1 wrote they observed NE#1 “interact normally with other classmates.”

d. OPA Interview – NE#1

OPA interviewed NE#1 on August 22, 2023. NE#1 stated they have worked for SPD as a police officers since 2019 and had been assigned to patrol the entire time after leaving the academy.

NE#1 stated they attended the EMT training, which was a work training at another location, but paid for by the Department and conducted on work time.

NE#1 stated they were familiar with the Complainant as another student, “in the same training as me.” NE#1 denied all the allegations against him.

NE#1 state that small groups were assigned by the students counting off numbers and breaking into groups. NE#1 stated he would not have been able to leave a group after being assigned. NE#1 denied leaving any groups with the Complainant and also stated he did not recall seeing the Complainant’s mastectomy scars.



NE#1 stated he did not recall the alleged incident from March 30, 2023, where the Complainant alleged NE#1 ignored them.

NE#1 recalled interacting with the Complainant on April 8, 2023, but his recollection of the interaction differed from the Complainant's. NE#1 recalled he was tasked with running the AED and was the team member that oversaw their teammates for the exercise. NE#1 stated he had a moment without anything to do, so he tried to "find work." NE#1 wrote he observed the Complainant "struggling to get some of their equipment out of the bags." NE#1 stated he approached and told the Complainant to "go back to what they were doing, trying to get other equipment out. I handed them ~~the~~ an OPA,¹ which is what we had both went to grab for and I went back to work on the AED after doing so." NE#1 stated that, later, he heard the Complainant looking at other members of the team and stating something to the effect of, "you know, you need to let me know what you're doing." NE#1 stated he thought the Complainant was still speaking to him, so he responded that he had let the Complainant know what he was doing. NE#1 denied telling the Complainant, "you don't know what you're doing," or using any profanity.

NE#1 denied avoiding the Complainant prior to receiving notice of the complaint, at which point he avoided the Complainant on instructions from his Guild. NE#1 denied being "intentionally" or "purposefully" rude to the Complainant or anyone else in the class.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged NE#1 engaged in bias due to the Complainant's gender and/or gender identity.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." SPD Policy 5.140-POL. This includes different treatment based on the gender and/or gender identity of the subject. *See id.*

The Complainant plausibly alleged NE#1 treated them differently after observing they were a transgender male. The Complainant provided several examples and OPA also reviewed a statement from a witness, EMT #1. EMT #1 was not a direct witness to the alleged incident involving NE#1 but did corroborate the consistency of the Complainant's allegations over time. NE#1 plausibly denied the allegations, explaining he did not remember the alleged incident from March 30 and provided a different perception of the April 8 allegations.

On the available evidence, OPA is unable to reach a conclusion by a preponderance of the evidence. Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

¹ NE#1 explained in his interview that "OPA" in the EMT context refers to a tool called an "oropharyngeal airway."



Named Employee #1 - Allegation #2

5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

The Complainant alleged NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.* Furthermore, the policy states: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” *Id.*

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be No Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**